

to calculate the frozen assistance per loop and applying these figures to qualified 1997 loops. Obviously, such an impact in a rural, high-cost area would be contrary to both the 1996 Act and the Joint Board's intent. Such an impact could be devastating to universal service in this telephone company's territory.

VII. The Joint Board's Recommended Decision for Qualifying Access Lines will be Administratively Burdensome and Impracticable, and Will Potentially Infringe Upon Consumer Privacy Rights.

Applying universal service support only to primary residence and single-line businesses in rural areas will also introduce significant, ill-advised, and unjustified competitive disruptions into the marketplace. If a customer is only able to receive one universal service-supported line from his local exchange carrier, he will have an incentive to purchase his second line from competitive local exchange carriers, especially if that competitive provider is eligible to receive universal service support. In rural, high-cost areas, the price differential between a universal service-supported line and a non-supported line could be very large. In addition, competitive local exchange carriers could purchase bundled, discounted R1 service from the incumbent local exchange carrier and resell this service to customers as second lines. The price advantage that the competitive local exchange carrier would enjoy over the incumbent local exchange carrier's non-supported line could be quite large, particularly in rural, high-cost areas. This recommendation by the Joint Board creates an immediate arbitrage market for competitive local exchange carriers, regardless of whether the new entrant elects to become an eligible telecommunications carrier ("ETC") and, therefore, eligible for the universal service support from these lines. This is a result that JSI believes is neither

advisable nor consistent with universal service objectives. JSI also does not believe that such a consequence was intended by the Joint Board.

At paragraphs 89 through 92 the Joint Board recommends that only the initial primary residence and single-line business customers (at a reduced level) be eligible for universal service support. JSI seriously questions whether this recommendation is practicable or advisable. This recommendation will also have unintended negative implications with respect to local exchange competition. This recommendation would result in the rates for residential second lines and businesses lines to increase; potentially very large increases since the current rates in rural areas are typically far below the cost to provide service to these lines. If the rates for residential second lines and single-line businesses are required to cover all or most of their cost, then rural residential second lines and single-line business rates will likely increase dramatically.

From a practical perspective, it will be extremely difficult, if not impossible, for any telephone company (particularly a rural telephone company) to obtain the type of information necessary to comply with this recommendation, particularly on a retroactive basis. For example, group residences will be very problematic. Current records often do not provide enough information for a telephone company to determine whether or not a second line to the same location is a second line for the same individual or a primary residence line for another household living at the same address. This will be particularly difficult in settings where group housing is common, such as college campuses.

The identification and policing of secondary residence lines (vacation homes, for example) will be even more difficult. The level of customer "interrogation" that will be required to determine whether a line is for a primary residence or a second home may

indeed border on an invasion of privacy. Even if telephone companies are empowered to ask these potentially intrusive questions, customers will have a huge incentive to always indicate that it is their "primary" residence. Enforcement will be difficult and potentially very costly.

VIII. Unanswered Questions and Unresolved Issues

While the Recommended Decision addresses many issues, it leaves many questions unresolved. In addition to such issues as the development of a proxy model and the appropriate benchmarks, many other questions need to be answered.

One overarching question that begs answering for rural telephone companies is: Are local exchange companies that do not receive universal service fund payments in 1997, based on 1995 costs, precluded from recovering their embedded costs during the six-year transition period? This could prove to be very detrimental to a company that has already placed investment in 1996 for the purposes of providing affordable, high-quality telephone service in high-cost areas, under the assumption that it would be permitted to recover a portion of this investment from universal service support mechanisms.

The Joint Board's Recommended Decision is also silent on how to address average cost companies that convert to cost in 1997 and receive only a partial year amount of universal service fund payments. The Joint Board's Recommended Decision does not clarify whether such a company's frozen embedded universal service assistance per loop will be calculated on this partial year payment or if the company will be allowed to annualize such payments to reflect a full year. Furthermore, significant investment decisions, such as a new digital central office switch or fiber optic outside plant, could

have been made based upon anticipated 1998 universal service fund payments. Depending upon how the proxy models are ultimately devised, such a company could experience significant reductions in 1998 high-cost fund payments from what was anticipated. The Joint Board's Recommended Decision provides for no mitigating "transition" for such average schedule companies. JSI believes that this is unacceptable and contrary to the 1996 Act and the intent of the Joint Board's Recommended Decision.

It is also important that the final rules carefully consider and clarify how mergers, acquisitions, and consolidations are to be treated. If not properly handled, such rules could lead to a great deal of uncertainty regarding local exchange carrier revenues, thereby making it difficult for these rural carriers to secure sufficient capital funding and loans at reasonable rates. JSI does not believe that such a consequence is advisable or intended by the Joint Board.

There are many other unanswered and unresolved questions and issues. Indeed, it is difficult, if not impossible, for JSI to effectively provide comments in this proceeding when so many issues remain unresolved. For example, if the Commission elects to proceed with a proxy model for rural telephone companies, JSI believes that it must have the opportunity to comment on such a model prior to its adoption. It is impossible for JSI, or any party for that matter, to provide meaningful comments on a proxy model before it has been developed.

IX. Conclusion

JSI appreciates the opportunity to comment in this proceeding and encourages the Commission to keep the universal service mandates clearly in mind as it moves forward

with this matter. The principle of universally available, affordable telephone service, in all areas of the nation has long been accepted and supported throughout the telecommunications industry. The 1996 Act mandates that universal service continue to be promoted even in light of the introduction of competition into local exchange telecommunications markets. JSI enthusiastically supports the universal service principles laid out in the 1996 Act.

JSI believes that the application of forward-looking economic costs is inappropriate when applied to the determination of universal service support in rural, high-cost areas. Rural local exchange carriers should be allowed to continue to receive universal service support based upon their realized, embedded costs until rate-base rate-of-return regulation, and its attendant service obligations, are removed and replaced with regulation similar to that experienced by the RBOCs.

It has yet to be proven that a proxy model can accurately predict the true costs of providing universal service for a rural telephone company. In order for proxy models to be viable, they must be able to accurately predict actual costs and not result in inappropriate swings or shifts over time. To date, no such model exists. Indeed, there is serious question as to whether one will ever exist for rural, high-cost areas. Therefore, JSI recommends that all rural telephone companies be allowed to continue to base their universal service fund payments on current, embedded costs. Such a ruling would be consistent with the 1996 Act, as well as the intent of the Joint Board's Recommended Decision with respect to mitigating the impact on rural, high-cost telephone companies. Furthermore, JSI recommends that rural telephone companies be permitted to submit their true "costs" for the calculation of universal service fund payments.

JSI also seriously questions whether limiting universal service funding to primary residence and single-line business customers is advisable or practicable. Such a rule would result in numerous practical, administrative, and privacy problems. It would also create unacceptable and unintended competitive arbitrage situations that would provide competitive local exchange carriers with a tremendous, and ill-advised, competitive advantage for second lines and lines to secondary residences.

Finally, there are many unresolved issues that must be addressed before final rules can be adopted. If the Commission elects to adopt a proxy model for rural telephone companies, JSI reserves the right to comment on such a model, at that time. It is impossible for JSI or any other party to comment on a model that does not yet exist.

Respectfully submitted,

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Date: December 19, 1996

Certificate of Service

I, Anna Marie Montoro, do hereby certify that on this 19th day of December, 1996, a copy of the foregoing "Comments of John Staurulakis, Inc." was mailed, first class postage prepaid, to the individuals listed on the attached.


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